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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,703	02/04/2004	Michael K. Noggle	NOGGL.001A	3790

20995 7590 07/28/2005

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FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
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WONG, STEVEN B

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/771,703

Applicant(s)

NOGGLE, MICHAEL K.

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

1. Applicant's amendment to the claims overcame the reference to Cardarelli alone. Accordingly, the Final Rejection has been withdrawn. However, new rejections of the claimed invention are set forth below.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lemon (4,783,077). Regarding claim 1, Lemon discloses a golf tee (note Figures 3 and 4) comprising a head and a tip and a plurality of ribs (30, 40, 50, 72, 74, 76) extending along the shaft of the tee between the head and the tip. A portion of the length of the ribs is of a constant thickness. The ribs inherently define a first stop that would provide increased penetration resistance when it engages the ground. The user would inherently be able to insert the tee to a desired second depth.

Regarding claim 2, the ribs define a greater cross sectional area of the tee than the area of the tee that does not include the ribs.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemon (4,783,077) in view of Cardarelli (6,139,449). Regarding claim 3, Cardarelli discloses a golf tee construction comprising a plurality of ribs (11, 12, 13) having indentations (20, 21) along their lengths. These indentations define stops and provide a separation between a first and a second plurality of ribs. Note column 4, lines 28-37 of Cardarelli stating that the notches provide a means to tee the ball to a consistent height. The increasing thickness of the ribs along their lengths will obviously provide increase resistance to insertion of the tee in the ground. It would have been obvious to one of ordinary skill in the art to provide the tee of Lemon with the indentations of Cardarelli in order to insert the tee of Lemon to a particular height in the ground.

Regarding claim 4, the tapering ribs of both Lemon and Cardarelli provide a greater cross sectional area for the second plurality of ribs than the first.

Regarding claim 5, the first plurality of ribs would extend between the first and second stop.

Regarding claim 6, it would have been obvious to one of ordinary skill in the art to form the tee of Lemon as modified by Cardarelli with the instantly claimed dimensions as the applicant has not shown the criticality for the claimed dimensions and it appears that the stop placement of Cardarelli would accomplish similar purposes.

Regarding claim 8, the recited steps are an obvious method by which one of ordinary skill in the art would utilize the tee of Lemon as modified by Cardarelli. It would have been obvious to one of ordinary skill in the art to insert the tee of Lemon as modified by Cardarelli into the

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first stop portion (between the first indentation and the second indentation) in order to tee the ball at a particular height.

Regarding claim 9, it would have been obvious to one of ordinary skill in the art to insert the tee into the second stop portion (between the second indentation and the ball support) in order to tee the ball at a particular height.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemon (4,783,077) in view of Cardarelli (6,139,449) and Blosser (5,356,146). Blosser discloses a golf tee including markings thereon for indicating the insertion depth of the tee. It would have been obvious to one of ordinary skill in the art to provide the tee of Lemon as modified by Cardarelli with markings thereon in order to indicate the teed height of the golf ball.

#### ***Response to Arguments***

7. Applicant's arguments, see pages 4-7, filed July 6, 2005, with respect to the rejection(s) of claim(s) 1-9 under 35 U.S.C. 102(e) and 103(a) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lemon (4,783,077); Lemon (4,783,077) in view of Cardarelli (6,139,449); and Lemon (4,783,077) in view of Cardarelli (6,139,449) and Blosser (5,356,146).

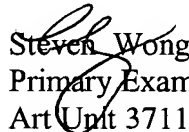
#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Wednesday 7am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven Wong  
Primary Examiner  
Art Unit 3711

SBW  
July 25, 2005